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IN THE SUPREME COURT FOR THE STATE OF ALASKA

SUNNY GUERIN, ELIZABETH ASISAUN
TOOVAK, and VERA LINCOLN,

Appellants,

v.

KEVIN MEYER, in his official capacity as
Lieutenant Governor of the State of Alaska;
GAIL FENUMIAI, in her official capacity as
the Director of the Alaska Division of
Elections, and the STATE OF ALASKA,
DIVISION OF ELECTIONS,

Appellee.

Supreme Court Case No. S-_____

Trial Court No. 3AN-22-06795 CI

NOTICE OF APPEAL AND STATEMENT OF POINTS ON APPEAL

COME NOW Appellants Sunny Guerin, Elizabeth Asisaun Toovak, and Vera Lincoln, by and through undersigned counsel, and pursuant to Alaska Rule of Appellate Procedure 216.5(b) and 202(a), hereby appeals to the Supreme Court of the State of Alaska from the decision entered by the Superior Court, Third Judicial District at Anchorage, titled Order on Motion for Summary Judgment and Cross-

GUERIN, ET AL. V. STATE OF ALASKA
NOTICE OF APPEAL AND STATEMENT OF
POINTS ON APPEAL

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Motion for Summary Judgment dated June 24, 2022.

Pursuant to Alaska Rule of Appellate Procedure 204(e), Appellants hereby state their points on appeal as follows:

1. The superior court erred by granting summary judgment to Appellees the Division of Elections (“DOE” or the “Division”), Kevin Meyer, and Gail Fenumiai.

2. The superior court erred by applying time periods contained in AS 15.25.100(c) to the 2022 special election despite express language in that statute applying such time periods to “general elections” and AS 15.40.140, which prescribed the time period, and thus corresponding deadlines, for special elections.

3. The superior court erred in failing to require the Division to provide notice of its imposition of the 64-day general election deadline contained in AS 15.25.100(c).

4. The superior court erred by failing to find the Division’s failure to fill the vacancy as required by AS 15.25.100(c) due to general election deadlines contained in that statute.

5. The Division violated AS 15.25.100(c) by finding that the plain language of AS 15.25.100(c), AS 15.40.140, and AS 15.40.220 did not delegate authority to the Division to enforce its own candidate withdrawal deadline where the Division concedes it has discretion to, and did, establish such deadline fewer than 64 days from the date of the 2022 Special Election.

6. The superior court erred in failing to consider the impairment of the constitutional and statutory rights of voters that will result from the Division’s improper

and inconsistent interpretation of Alaska Statute Title 15, direct violation of Title 15 provisions, and failure to provide proper notice of the Division's election deadlines.

7. The superior court erred in failing to consider the impairment of the constitutional and statutory rights of candidates resulting from a lack of notice by the Division regarding its application of general election time deadlines to special elections.

8. The superior court erred in failing to consider that the Division disregarded other deadlines applicable to general elections, such as the June 1 candidate filing deadline established by AS 15.25.040, when it utilized its discretion to establish controlling deadlines for the 2022 Special Election.

9. The superior court did not properly weigh the substantial harm and voter confusion that results from the Division's incorrect interpretation of AS 15.25.100(c) and violations of related Alaska Statutes against the Division's ability to quickly remedy the harm by placing the candidate receiving the fifth highest number of votes on the ballot in accordance with AS 15.25.100(c).

10. The superior court erred in failing to consider the consequences of permitting to the Division to interpret its statutory authority inconsistently.

11. The superior court erred in rejecting the arguments raised throughout the pleadings filed by Plaintiffs in the expedited lower court proceeding as well as those raised in oral argument that arose from the Division's misinterpretation and resulting violation of Title 15.

DATED this 24th day of June, 2022.

BIRCH HORTON BITTNER & CHEROT

By: /s/ Holly C. Wells

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